

**TESTIMONY OF LONNIE WRIGHT, DIRECTOR, OKLAHOMA BUREAU OF NARCOTICS AND
DANGEROUS DRUGS CONTROL**

Before The

**GOVERNMENT REFORM COMMITTEE'S SUBCOMMITTEE ON CRIMINAL
JUSTICE, DRUG POLICY, AND HUMAN RESOURCES**

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I. Introduction

Chairman Souder, Ranking Member Waxman, and distinguished members of the Subcommittee, it is indeed my honor to address you today, and I take particular pleasure in bringing you something of a success story in Oklahoma's fight against the illegal drug scourge.

Like many states, Oklahoma has spent the past decade fighting the insidious problem of clandestine methamphetamine laboratories. Researchers are learning more each day about the corrosive effects this drug has on the human body and mind, but already we know it to be among the most addictive of the street drugs, and one which breeds violence and danger, leaving in its wake permanent damage to the user's brain structures. The makeshift laboratories which produce this drug leave behind contaminated dwellings, environmental and ecological damage, and in some cases death or injury to innocent victims who are all too often children.

Oklahoma witnessed a twelve-thousand percent increase in the number of these clandestine methamphetamine laboratories seized from 1994 through 2003, with more than twelve-hundred of them seized last year. Those of us in drug enforcement spent much of that decade battling the problem on multiple fronts through strict enforcement, rigid prosecution, and by pushing for new laws aimed at helping us to apprehend and prosecute those involved in the manufacture and distribution of this deadly drug. We soon realized what the statistics above readily tell: catching them wasn't our problem, and in fact we were doing quite well at this. Our problem was what to do with the ever-growing number of these offenders once they were convicted, how to stop the massive drain on criminal justice resources which these offenders cause, and in short, how to prevent the problem rather than treat its aftermath.

Law enforcement from the federal down to the local level banded itself into a coalition. Lawmakers convened a legislative study. Our news media became interested and lent support through its editorial pages. The result was a piece of legislation which immediately cut Oklahoma's meth lab problem in half, and has become a model for almost two dozen other states considering similar measures.

II. An Overview of the Oklahoma Meth Lab Problem

Methamphetamine is a highly addictive street drug, commonly manufactured in clandestine laboratories using a variety of household products and chemicals. Although there are a number of ways of making this drug, it is imperative to note that pseudoephedrine is required in all of

these methods. The reason for this is that *pseudoephedrine is not just an ingredient, it is the immediate precursor and in fact methamphetamine is pseudoephedrine with one molecule chemically removed*. Removing this oxygen molecule is very simple and thus "meth cooks" literally see boxes of methamphetamine on the store shelves where you and I would simply see decongestant products containing pseudoephedrine.

The meth lab epidemic emerged as a chief public safety and public health threat to the citizens of Oklahoma. In 1994, 10 such labs were seized in our state. In 2003, that number grew to 1,235. The Oklahoma Department of Mental Health reports that 11.5% of Oklahoma high school students have used methamphetamine at least once in their lifetime. Among high school seniors, that number is 13.1%. In Tulsa County, our second largest county, the District Attorney's Office reports that children have access to approximately 40% of the clandestine laboratories seized there, and that 12% of all felonies there are directly related to methamphetamine. A study of children removed from meth labs in Tulsa revealed the following:

- In 2001, 40% tested positive for the presence of methamphetamine.
- In 2002, 60% of those whose test results are known tested positive for presence of methamphetamine.
- From January to June, 2003, 89% tested positive for methamphetamine.

Because methamphetamine use produces individuals more paranoid, violent, and unpredictable than even most other street drugs, the current handling of these offenders even after their first or second arrest is contributing to the risk to public safety because they are not detained and/or treated immediately after their first arrest. This tendency toward violence is well-known among police officers, and is borne out by Arrestee Drug Abuse Monitoring (ADAM) program statistics, which indicate a high correlation between meth use and violence, use of weapons, etc.

III. Economic vs. Addiction-Based Crimes

Almost all of the labs seized in Oklahoma involve individuals making the drug to supply themselves and a close circle of associates. According to drug task force commanders across Oklahoma, the vast majority of the meth labs seized last year, something on the order of 95% or more, were capable of producing an ounce of methamphetamine or less at a time. Additionally, the overwhelming majority of those arrested for manufacturing are themselves addicted to the drug. We rarely see any real distribution organization associated with these groups, and while some of those arrested sold methamphetamine to support themselves and/or family members, most sold only enough to purchase additional chemicals to manufacture more methamphetamine.

Thus, these are not economic based crimes, but rather addiction based crimes. The key significance of this distinction between economic-based versus addiction-based drug manufacturing lies in the ability of policymakers to successfully combat each with traditional criminal justice tools. Drug manufacturing, trafficking, and distribution crimes are typically motivated by economics, *i.e.* the offenders are in it for the money and quite often do not use the illegal drugs they sell. When arrested, they will typically cease their criminal activity for at least

a period of time, particularly if they do not know the precise nature of the case against them and the details of how law enforcement apprehended them.

Methamphetamine manufacturers/addicts respond differently. Once released on bond, they are often arrested a second and perhaps even a third time on methamphetamine related charges before their first case ever goes to court. Due in large part to the psychosis associated with methamphetamine addiction, the probability that a meth manufacturer/addict released on bond will return to using and making the drug is near 100%, according to law enforcement and treatment professionals who deal regularly with these offenders. Consequently, enormous law enforcement and criminal justice resources are expended each year, with no apparent diminution in the number of labs seized. In many areas of Oklahoma, all available drug enforcement efforts were absorbed responding to meth labs, leaving no time for lengthy but needed complex investigations of other criminal enterprises. This allows very dangerous and sophisticated criminal organizations to operate largely unchecked in many cases due to the fact that meth lab cases monopolize police resources.

IV. An Overview of the Oklahoma Solution

In September of 2003, the Oklahoma House of Representatives convened an interim study of the meth lab problem. This study was requested by Representative John Nance and chaired by Representative Paul Roan, and featured testimony from more than two dozen law enforcement officers, prosecutors, treatment professionals, and others involved in the issue. The result was House Bill 2176 authored in the House by Representatives Nance, Roan, and others, and in the Senate by Senator Dick Wilkerson.

This legislation contained a number of provisions suggested during the interim legislative study, but two of these have been key to reducing Oklahoma's meth labs. First, the bill places pseudoephedrine on Schedule V of Oklahoma's Controlled Dangerous Substances List, and second, it allows most of those charged with making and using methamphetamine to be held without bond for their own protection and the protection of the public.

When this bill was signed into law by Governor Brad Henry on April 7th, 2004, the immediate effect was that tablet form pseudoephedrine products could no longer be sold in convenience or discount stores, but were restricted to the trained, responsible, and accountable hands of a pharmacist. No doctor's prescription is required to purchase these products, but consumers must obtain them from a pharmacy, show a photo identification, and sign a log. The law also restricts the amount any one purchaser may obtain to 9 grams during any thirty-day period. This 9 gram quantity amounts to several boxes of these products, and is much more than one taking the full recommended dosage during that time period would need.

Besides limiting tablet form pseudoephedrine sales to pharmacies, Oklahoma's law also addresses the revolving door posed by meth manufacturing offenders who post a bond and return immediately to the making and taking of methamphetamine. Those arrested on manufacturing related offenses are not allowed to post bail at the jail without first appearing before a magistrate. At that hearing, if the state puts forth evidence that the manufacturing crime was to support the defendant's own dependence upon methamphetamine, there arises a rebuttable presumption that

no conditions of release would ensure the safety of any member of the community. This closely mirrors federal law and effectively forces the methamphetamine manufacturer/user to prove to the court why their release would not endanger their own or the public safety.

During the first month this law was operational, an immediate reduction of approximately 40% was seen in the number of clandestine methamphetamine laboratories being seized statewide. Perhaps even more telling is the fact that drug agents in many locales of Oklahoma report that they have worked no operational labs in recent months, when they were encountering two per week prior to the new law's effective date.

The Oklahoma City Police Department has seen a 59% drop in meth labs seized from April through October compared with the same time period for last year. The Tulsa Police Department showed a 39% decrease over the same time period. Statewide, the 27 or so drug task forces were averaging 92.4 meth labs per month prior to the passage of this bill, and that monthly average is down 65%.

Despite these dramatic decreases, there are still methamphetamine labs being seized in Oklahoma. The pseudoephedrine supplying these appears to come from a number of pharmacies not strictly enforcing the 9 gram limit, from smugglers bringing it from surrounding states, and from so-called "smirfing", where criminals go to multiple pharmacies and obtain amounts which are individually under the limit, but collectively much more. This last problem will soon be addressed by new enhancements to Oklahoma's prescription monitoring law which will soon electronically track all controlled substances in Schedules II through V, including pseudoephedrine. The Oklahoma Bureau of Narcotics is presently implementing a web-based secure system which will allow law enforcement, physicians, and pharmacists to access in real time the records showing which persons have purchased pseudoephedrine and in what amounts.

The journey through researching, drafting and ushering House Bill 2176 through the legislative process taught us several lessons. First, it is essential that one studying this problem and possible solutions understand that pseudoephedrine is not simply an ingredient of methamphetamine, but is an immediate precursor and a very slight and easily-accomplished chemical change is all that is needed to change the former to the latter. Second, one must understand that the bulk of these labs are operated by addicts and that their manufacturing crimes, while sometimes accompanied by small sales of the drug, are motivated chiefly by their addiction and not by the desire to make money doing it. This in no way excuses the crime. It simply informs policy-makers that traditional criminal sanctions aimed at deterring this and other offenders do not work to offset so powerful an addiction as methamphetamine. Third, one must make the mental transition from thinking of these products as benign and ubiquitous and recognize that, through the actions of the criminal element, they are precisely the type of product which the controlled substances act was designed to regulate.

We also learned some procedural lessons. We found that law enforcement officers were nearly unanimous in both their assessment of the problem and their belief in what should be done, and that marshalling and presenting this collective opinion to the legislature was essential. We learned that the press, through reporting the facts as we know them, is key to such an

undertaking. Finally, our efforts to pass this legislation were helped enormously by the early and unwavering support of Oklahoma Governor Brad Henry. He called for passage of this bill in his State of the State address prior to the start of the legislative session, he monitored the bill's progress, and when it passed the House and headed to the Senate, he called a press conference urging its quick approval and transmittal to him without political entanglements.

V. Conclusion

I know that much of your study today concerns what the federal government can do to help states battle the meth lab problem, and at least three broad areas come to mind. First, policy-makers at the federal level must recognize and then help state officials to recognize that pseudoephedrine fits perfectly the statutory definition of a controlled dangerous substance because it has some redeeming medical value but a high potential for abuse. In this regard, it is no different than drugs like heroin and morphine, and more recently codeine, all of which were once readily available in retail stores until their abuse forced legislative action to relegate them to pharmacies. While one's tendency may be to view these products as simple, harmless cold or allergy medicines, the reality is that their abuse potential as an immediate precursor to methamphetamine requires some regulation.

The second thing that federal officials can do is to ally themselves closely with state and local law enforcement officials and interested policy makers to provide support and statistics. The coalition we formed in Oklahoma was well-represented by every level of law enforcement. The federal Drug Enforcement Administration provided statistics on those distributors and businesses providing pseudoephedrine in Oklahoma, information which DEA collects as a result of federal licensing and record-keeping laws passed some years ago. This statistical information was invaluable in helping us to prove the inordinately and in some cases ridiculously high amounts of these products being dumped on our streets by certain persons and companies, and played a large role in the ultimate success of our legislative efforts.

Third, the federal government should continue its current level of support to states in implementing prescription monitoring programs. The Office of National Drug Control Policy ranks prescription drug abuse as the second largest drug problem in America, and electronic monitoring programs will combat this, and at the same time allow tracking of pseudoephedrine products in states which have made it a controlled substance.